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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,657	04/24/2001	Duncan M. Kitchin	INTL-0405-US (P8988)	6439

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EXAMINER

IYER, RAMAKRISHNA R

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,657

Applicant(s)

KITCHIN, DUNCAN M.

Examiner

Raju Iyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-30 is/are allowed.
- 6) ☒ Claim(s) 1-3, 10, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 4-9, 11-14, 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - On page 9, line 19, "the" should be "then";
 - In the description of Fig. 5 on page 16, lines 1-19, blocks 510(4) and 520(1) are mentioned in the text, but not shown in Fig. 5. These blocks are incorrectly labeled as 520(4) and 520(2) in the figure. Appropriate correction is required in Fig. 5.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by as being anticipated by US Patent Number 6,009,106 ("Rustad et al").

Regarding Claim 1, Rustad et al disclose a communication device that consists of an interface to transmit data to a receiving device and has a controller communicatively coupled to the interface (see Fig. 6). Rustad et al further teach that the controller detects changes to the bit rate transmit/receive status of the channel (e.g. Col. 4, lines 57-63; Co. 9, lines 45-60; and Col. 17, lines 7-12) and ,

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and adjusts the bandwidth of the transmitted switched (reserved) and unswitched (unreserved) data in response to detecting changes to the transmitted bit rates. Therefore the limitation described in Claim 1 is judged to have been anticipated by Rustad et al.

4. Regarding Claim 10, Rustad discloses that the controller "could consist of central processing unit and a control program stored in program memory" (Col. 10, lines 26-29). Therefore, the limitation described in Claim 10 is judged to have been anticipated by Rustad et al, in view of this disclosure, and further as applied to the limitations of Claim 1 above.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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7. Claims 2, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rustad et al in view of US Patent Number 6,154,643 ("Cox").

8. Regarding Claim 2, Rustad et al do not disclose wireless as the transmission medium in their invention, but disclose all other limitations as applied to Claim 1 above (paragraph 1).

Cox, in his invention, discloses a system and method of operating at different bandwidths over a radio (wireless) link (Fig. 2, and Col. 4, lines 52-65).

A person of ordinary skill in the art would have been motivated to employ Cox in Rustad et al, since wireless transmission channel has limited bandwidth and efficient use of this bandwidth to accommodate bit rate changes apply equally well to wireless as they do to copper or other transmission channels.

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains, to combine Cox with Rustad et al (collectively "Rustad-Cox") to obtain the invention as specified in Claim 2.

9. Regarding Claim 15, Rustad et al do not disclose wireless as the transmission medium in their invention, but disclose all the other limitations as applied to Claim 10 above (paragraph 2).

Cox, in his invention, discloses a system and method of operating at different bandwidths over a radio (wireless) link (Fig. 2, and Col. 4, lines 52-65).

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A person of ordinary skill in the art would have been motivated to employ Cox in Rustad et al, since wireless transmission channel has limited bandwidth and efficient use of this bandwidth to accommodate bit rate changes apply equally well to wireless as they do to copper or other transmission channels.

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains, to combine Cox with Rustad et al (collectively "Rustad-Cox") to obtain the invention as specified in Claim 15.

10. Regarding Claim 16, Rustad-Cox disclose all the limitations of the claim as applied to Claim 1 above (paragraph 1) and Claim 15 above (paragraph 7).

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rustad-Cox et al as applied to Claim 1 and 2 above (paragraph 1 and 4), and further in view of US Patent Application Publication Number US2003/0084184 A1 ("Eggleston et al"). Rustad-Cox do not disclose the wireless interface comprising a wireless network card.

Eggleston et al, in their publication, disclose a wireless user device (portable computer) with a radio frequency (wireless) modem that is implemented on a wireless network card (Fig. 1, and paragraph 0023, page 2).

A person of ordinary skill in the art would have been motivated to employ Eggleston et al in Rustad-Cox, since implementation of wireless and logic circuits

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on network cards is economical as well as necessary from a production standpoint, when the volume requirements of the devices are high.

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains, to combine Rustad-Cox with Eggleston et al (collectively "Rustad-Cox-Eggleston") to obtain the invention as specified in Claim 3.

Allowable Subject Matter

12. Claims 4 –9, 11-14, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 18-30 are allowed.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (please see attachment).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raju Iyer whose telephone number is (571) 272 6047. The examiner can normally be reached on 7.30 a.m. - 4.00 p.m. on all weekdays except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272 3126. The

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fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI

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Chau T. Nguyen

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